

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 3:10-00250
)	Judge Trauger
MATTHEW DEHART)	

**MOTION TO SUBSTITUTE COUNSEL, ENLARGE DEADLINES, CONTINUE TRIAL
AND MAINTAIN COURT FUNDING FOR EXPERT SERVICES AND TRANSCRIPTS**

COMES NOW the Defendant, **Matthew DeHart**, by and through his undersigned counsel, Kimberly S. Hodde, Esq., and hereby moves this Honorable Court for the entry of an Order (1) substituting Kimberly S. Hodde as counsel of record for Defendant DeHart and relieving Ron Small, Esq., of other or further responsibility in this cause, (2) enlarging the time within which Defendant DeHart has to file pretrial motions to thirty (30) days prior to trial, (3) continuing the trial from January 4, 2011 to a date no earlier than mid May 2011, and (4) continuing Court funding for expert services (namely private investigation and computer forensic services) and transcript costs since Defendant DeHart remains indigent and his family is unable to fund those services. In support hereof, Defendant DeHart states as follows:

1. On September 8, 2010, Defendant DeHart filed a CJA 23 Financial Affidavit, and finding him indigent, the Court appointed the Federal Public Defender to represent him. (Docket Entries 7 & 8). Shortly thereafter, AFPD Ron Small began representing him.
2. This matter is currently set for trial on January 4, 2011.
3. As of this date, Defendant DeHart's family has formalized the necessary arrangements

to retain undersigned counsel to represent him in the above-captioned matter, but the family is unable to fund expert services at this time. Defendant DeHart has been continuously detained since his arrest. He has earned no income since that time, and therefore, he remains indigent. With his consent and at his behest, his family has retained undersigned counsel. However, Defendant DeHart's family has limited resources and has made a tremendous sacrifice to retain counsel for him. Defendant DeHart's family has reported that they cannot commit to funding expert services (such as private investigation or computer forensic services) and transcript costs. Because Defendant DeHart remains indigent, undersigned counsel requests that the Court continue to fund expert services and transcript costs.

4. AFD Small has authorized undersigned counsel to report that he does not object to this proposed substitution of counsel. Mr. Small has offered to provide his assistance in making a smooth transition.

5. Undersigned counsel will procure the discovery and the balance of the file from Mr. Small. Once that information is received, undersigned counsel will need time to review and digest the materials as well as to identify, research and prepare any necessary pretrial motions. An enlargement of the pretrial motion filing deadline to thirty (30) days prior to the next trial setting should afford undersigned counsel to make some decisions about the progression of the case.

6. Undersigned counsel requests a continuance of the current trial setting from January 4, 2011 to a date no earlier than mid-May of 2011. Undersigned counsel has several upcoming jury trials including a six (6) week, multi-defendant jury trial on February 8, 2011 (*United States v. Christopher Imes*, MDTN Case No. 3:09-00244 (Judge Campbell)), and a continuance of this length should afford undersigned counsel sufficient time to file pretrial motions and make substantial

headway with a defense investigation.

7. Undersigned counsel is contemporaneously filing her Notice of Appearance.

8. Assistant United States Attorney Carrie Daughtrey has authorized undersigned counsel to report that the government has no objection to a continuance of the trial.

9. Filed contemporaneously under separate cover is a properly executed Waiver of Speedy Trial.

WHEREFORE, based on the foregoing, Defendant DeHart respectfully requests that this Honorable Court enter an Order (1) substituting Kimberly S. Hodde as counsel of record for Defendant DeHart and relieving Ron Small, Esq., of other or further responsibility in this cause, (2) enlarging the time within which Defendant DeHart has to file pretrial motions to thirty (30) days prior to trial, (3) continuing the trial from January 4, 2011 to a date no earlier than mid May 2011, and (4) continuing Court funding for expert services (namely private investigation and computer forensic services) and transcript costs since Defendant DeHart remains indigent and his family is unable to fund those services.

Respectfully submitted,

HODDE & ASSOCIATES

40 Music Square East
Nashville, TN 37203
(615) 242-4200

BY: s/ Kimberly S. Hodde
KIMBERLY S. HODDE
Attorney for Defendant DeHart

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent via the Court's electronic filing system, *or*, if not registered, sent U.S. Mail, postage prepaid, to:

S. Carran Daughtrey, Esq.
Assistant United States Attorney
110 Ninth Avenue South
Suite A961
Nashville, TN 37203

Ron Small, Esq.
810 Broadway, Suite 200
Nashville, TN 37203

this 27th day of December, 2010.

s/ Kimberly S. Hodde
KIMBERLY S. HODDE